Executive Summary
Direct Investigation Report

Regulation of Licensed Swimming Pools by Food and Environmental Hygiene Department

Introduction

Swimming pools in Hong Kong can largely be categorised into public swimming pools and licensed private swimming pools ("licensed swimming pools"). While the former is operated and managed by the Leisure and Cultural Services Department ("LCSD") under the Culture, Sports and Tourism Bureau in accordance with the Public Swimming Pools Regulation subsidiary to the Public Health and Municipal Services Ordinance, the latter is licensed and regulated by the Food and Environmental Hygiene Department ("FEHD") under the Environment and Ecology Bureau pursuant to the Swimming Pools Regulation ("the Regulation") subsidiary to the same Ordinance. Licensed swimming pools offer an alternative to public swimming pools to members of the public for leisure and exercise.

2. As the licensing authority, FEHD ensures licensees' compliance with the Regulation and licensing conditions mainly through regular inspections and complaint handling to protect swimmers' safety and maintain environmental hygiene.

3. Having examined FEHD's regulation of licensed swimming pools, we have the following comments and recommendations.

Our Findings

Difficult to Ensure Achievement of Target Frequency of Successful Inspections

4. FEHD's health inspectors pay surprise visits to licensed swimming pools at least once a month during the swimming season between April and October or any other periods of time where pools are open for use each year for routine inspections. If a swimming pool was found closed during a routine inspection, FEHD would still consider the requirement of monthly inspections as fulfilled. In other words, FEHD does not require its staff to arrange another routine inspection within the same month to make up the unsuccessful attempt.

5. Our investigation reveals that health inspectors, when conducting inspections, might encounter different extents of pool closure. In one case, FEHD managed to conduct only one successful inspection during the entire swimming season.

6. Currently, FEHD does not require licensees to submit the opening schedules of their swimming pools. They are neither required to notify FEHD should their pools be closed for maintenance. According to FEHD, health inspectors maintain regular communication with licensees or authorised persons in charge of the swimming pools to confirm the opening schedules so as to plan for inspections. Nevertheless, our findings show that the regular communication between health inspectors and licensees/persons-in-charge can be conducted verbally (such as by phone) without any records made, rendering it difficult to verify the actual practice of staff. On the other hand, FEHD has not laid down any guidelines as to how staff should handle situations where the swimming pool is closed during their visit.

7. We are of the view that FEHD is obliged to enable successful conduct of surprise inspections to swimming pools to ensure compliance with the Regulation and licensing conditions at all times for the protection of swimmers' safety and maintenance of environmental hygiene. We recommend that FEHD formulate operational guidelines for its staff specifying the follow-up arrangements in the event of closure of swimming pools during surprise inspections. Such arrangements should entail, on one hand, proper recordkeeping of health inspectors' regular communication with licensees/persons-in-charge in relation to the opening schedules of swimming pools for effective planning of inspections; on the other hand, in the event of pool closure during inspections, proactive reaching-out to licensees/persons-in-charge to enquire about the reasons of closure and latest opening schedules so as to minimise recurrence of the same problem. FEHD's staff should properly record the gist of relevant conversations (including latest opening schedules) for future reference where necessary.

Quality of Inspections Not Up To Standard

8. Generally speaking, inspections to licensed swimming pools by health inspectors involve checking of items listed on a form named "Record of Inspection to Licensed Swimming Pool" ("inspection record form") and recording of inspection results and respective actions taken on another form named "Record of Action taken by Inspecting Officer" ("action record form"). Our investigation reveals that the quality of FEHD's inspection of pools is not up to standard by overlooking irregularities (for example, abnormal test result of the pH value of pool water). Moreover, there are different checking methods for some of the inspection items on the inspection record form, which vary in rigorousness, and health inspectors may not always adopt the most reliable method during inspections.

9. We understand that there are no hard and fast rules on the choice of checking method, as the conduct of inspections is dependent on the setting and actual circumstances of swimming pools and health inspectors would have to make risk-based assessments case by case. That said, we consider it necessary for FEHD to ensure a certain degree of consistency in its regulatory standards while respecting the on-the-spot judgement of health inspectors. We recommend that FEHD strengthen the training for health inspectors regarding the inspection of licensed swimming pools, provide more guidelines on the circumstances under which different checking methods are applicable

and unify the checking standard of inspection items where feasible, with a view to enhancing the quality of inspections.

Impropriety in Inspection Methods and Compilation and Maintenance of Relevant Records

10. Prior to our investigation, the inspection record form did not include important items stipulated in the Regulation and licensing conditions (such as proof of life-saving attendants' qualifications and rescue-breathing face masks). In other words, even if a swimming pool was inspected according to the then inspection record form and the health inspector found all listed items satisfactory, it did not necessarily mean full compliance.

11. Omission of important items in the inspection record form inevitably affects how health inspectors conduct inspections and compile records. For example, health inspectors used to put more focus on the counting of life-saving attendants than checking their proof of qualification. We find it unsatisfactory that, even if some health inspectors had diligently checked the qualification of life-saving attendants, they could not record the information in the form due to its limitation, rendering subsequent verification difficult if not impossible. Our investigation also indicates that certain items on the inspection record form were too generic and lacked specification. As a single item may bear multiple meanings, it is difficult to apprehend the actual circumstances of inspections through the form. For example, "Quality of pool water" could refer to the result of either onsite or laboratory tests of pool water samples.

12. We are pleased to note that after the launch of our investigation, FEHD has progressively revised or updated the inspection items to enhance the inspection record form. Meanwhile, inspection items listed on the form were more clearly delineated for better consistency of health inspectors' actions. One of our case studies shows that the newly revised inspection record form can effectively alert health inspectors to irregularities during inspections. We recommend that FEHD implement measures to help health inspectors familiarise with the new inspection items on the inspection record form as soon as possible, while continuing to review other items on the form as necessary to improve the effectiveness of inspections.

13. Furthermore, FEHD's inspection records serve as a crucial basis for its future enforcement actions. Hence, it is of paramount importance that records are comprehensive, accurate and properly maintained. It is evident from the case studies that when conducting inspections, health inspectors put a tick ("✓") beside an inspection item to indicate that it was satisfactory even though the item had not been duly checked for some reason. Such practice can by no means reflect the actual happenings during the inspection. Another case shows the failure of a health inspector to log the verbal warning given during an inspection on the action record form. Other improprieties in relation to compilation of inspection records were also seen. In fact, the current practice of using one inspection record form to record the results of multiple inspections can be confusing. We are pleased to learn that subsequent to the commencement of this direct

investigation, FEHD has taken improvement measures regarding health inspectors' compilation of records.

14. As regards record maintenance, we find inconsistencies in the tripartite inspection records of licensed swimming pools found in FEHD's inspection record form and action record form, file minutes as well as complaint management information system. Discrepancies between records kept by FEHD and licensees respectively were spotted from our case studies. On the other hand, the inspection record form and action record form as paper records are prone to physical deterioration and loss, which is undesirable.

15. To enhance the integrity and authenticity of inspection records, as well as lower the risk of losing paper records, we recommend that FEHD more proactively apply technology and explore the use of mobile apps/smart phones in recording the inspection results for licensed swimming pools. Mobile apps/smart phones will enable systematic compilation of records for each inspection through the latest version of inspection record form and the direct transfer of relevant information and records to FEHD's centralised computer system. The ancillary photo-taking function should also facilitate FEHD's evidence collection. FEHD responded that it is working on the enhancement of the Licensing Management Information System to electronically record the inspection results for licensed swimming pools, among other functions.

Licensees Not Required to Maintain Duty Logs of Life-Saving Attendants

16. Licensees are not required to maintain duty logs of life-saving attendants under the existing licensing conditions. Hence, when handling complaints about insufficient life-saving attendants, FEHD can only make a judgement based on the findings of subsequent inspections but can by no means check the relevant duty logs against the clues provided by complainants such as the date and time of the alleged incident. In the absence of corroborative evidence, it is difficult for FEHD to ascertain whether a licensee has violated the requirements by conducting specific investigations.

17. Deployment of sufficient life-saving attendants at licensed swimming pools is indispensable to the safeguarding of swimmers' safety. We recommend that FEHD explore stipulating in the licensing conditions the requirement for licensees to maintain duty logs of life-saving attendants and produce such records upon FEHD officers' request, to provide reference for complaint investigation or other enforcement actions.

Lack of Accident Notification Mechanism

18. FEHD does not put in place an accident notification mechanism for licensed swimming pools. Unless informed by media reports or other channels, FEHD would not learn of a serious accident in a swimming pool subjected to its regulation. For the same reason, FEHD has no idea of the casualties relating to licensed swimming pools. We find it unsatisfactory that FEHD, unaware of serious accidents in licensed swimming pools, can hardly conduct investigation or take follow-up actions to find out if the

licensees have breached the requirements and rectified the problem and to review the appropriateness of prevailing licensing conditions.

19. We recommend that FEHD establish a notification mechanism for accidents in licensed swimming pools and require licensees to report cases involving casualties within a prescribed period. In this regard, FEHD may consider providing a standard form for licensees to state the details. Upon receipt of an accident report, FEHD may arrange on-site investigation and analysis to examine whether the accident involved irregularities on the part of the licensee and review whether the licensing conditions are appropriate.

Inadequate Requirements regarding Life-saving, First-aid and Resuscitation Equipment

20. The existing requirements regarding life-saving, first-aid and resuscitation equipment differ considerably between licensed swimming pools and public swimming pools. We understand these two types of swimming pools may not be comparable in terms of patronage and management mode. Hence, it may not be suitable to standardise their requirements from a risk management perspective. Nevertheless, under the existing licensing conditions of licensed swimming pools, licensees are required to keep rescue-breathing face masks but not more basic equipment such as lifebuoy and first-aid box. This is obviously inadequate.

21. We recommend that FEHD review the existing licensing conditions regarding the requirements for life-saving, first-aid and resuscitation equipment and explore the inclusion of basic equipment. FEHD should also identify licensed swimming pools of higher risk (such as those of higher usage or used by high-risk groups including school children) and encourage licensees to upgrade relevant equipment, for example, installation of closed-circuit television and provision of automated external defibrillators, for swimmers' safety.

Insufficient Guidelines on Water Quality

22. Currently, solutions adopted by licensees in tackling pollution sources found in pool water are not standardised. Nor has FEHD set any requirements for stepping up cleaning or filtering of pool water in case different pollution sources are found in licensed swimming pools. Moreover, the Department has not set any criteria for closing swimming pools of substandard water quality. In other words, it is entirely up to the licensee whether or not a swimming pool of substandard water quality would still be open for use.

23. During our investigation, FEHD has proactively enquired with LCSD about the handling of different pollution sources in licensed swimming pools. FEHD expected to complete the revision of its guidelines in the second quarter of 2024, with reference drawn from LCSD's practice and relevant guidelines in handling similar situations in public swimming pools. We recommend that FEHD, with reference to LCSD's

opinions, formulate and issue to licensees in due course guidelines on the handling of pollution sources in swimming pool water. The guidelines will serve as standards for licensees when handling different pollution sources, thereby further assuring pool water quality.

24. At the same time, FEHD has not introduced any guidelines for frontline staff on the handling of complaints about water quality of licensed swimming pools. It depends greatly on staff's on-the-spot judgement as to whether and how pool water tests should be carried out, including whether pool water samples should be taken for further laboratory tests. In fact, FEHD has admitted that, in the absence of guidelines, actions taken by staff in handling similar complaints may lack consistency.

25. We are pleased to learn that in response to our investigation, FEHD has taken positive steps to formulate improvement measures. We recommend that FEHD promptly formulate internal guidelines on the handling of complaints about water quality of licensed swimming pools by health inspectors and continue to monitor their implementation.

Low Enforcement Rates

26. The numbers of FEHD's enforcement actions against licensed swimming pools have been very low in recent years. Between 2017 and 2023 (as at 30 September), FEHD had conducted 52,697 routine inspections, among which only two cases of non-compliance with licensing conditions were identified. On the other hand, FEHD had received 660 complaints about licensed swimming pools during the period, representing an average of 98 complaints each year, with only 1.2 complaints found substantiated.

27. While low enforcement rates possibly imply good performance of licensees, our investigation reveals inadequacies in FEHD's inspection of licensed swimming pools in terms of frequency, quality, method and record (see **paragraphs 4 to 15 above**). We recommend that FEHD step up its enforcement against non-compliant licensed swimming pools.

Enhancing Monitoring by Swimming Pool Users

28. Despite being the licensing authority and regulator of licensed swimming pools, FEHD can hardly perform round-the-clock monitoring at the scene. In October 2022, FEHD imposed an additional licensing condition requiring licensees to display at a conspicuous location of the pool the required number of life-saving attendants during the normal opening hours. This laudable move not only serves as a reminder to licensees/management staff, but also makes information more transparent to swimming pool users and empowers them to take part in the monitoring of swimming pools.

29. We recommend that FEHD explore different ways to engage pool users in the monitoring of licensed swimming pools. For example, FEHD may consider adding

requirements to the licensing conditions that the licensee should display recent photographs, names and the Pool Lifeguard Award numbers of the duty life-saving attendants as well as the standards of pool water quality and respective test results, alongside the channels to report irregularities.

Regulation of Private Swimming Pools by Environmental Hygiene Authorities Not Uncommon

30. There are views in society that operation of public swimming pools and regulation of private swimming pools should be undertaken by one single government department. Similar public views also reached us during our investigation. Since the abolition of the Urban Council and the Regional Council in 2000, the regulation of private swimming pools and operation of public swimming pools have been undertaken by FEHD and LCSD respectively. We have enquired with the two bureaux concerned and they do not consider it necessary to alter the existing arrangements.

31. We understand that such views are premised on the avoidance of fragmented responsibilities among different departments. In this regard, we have examined the division of work on public and private swimming pools in four jurisdictions, namely Vancouver, Shanghai City, Macao and Singapore. In three of these jurisdictions, private swimming pools are regulated by the environmental hygiene authorities while public swimming pools are operated by the sports and recreation authorities. The existing division of work regarding swimming pools in Hong Kong is, therefore, not uncommon. In addition to swimming pools, there are other facilities in Hong Kong such as performance venues where the Government has similarly assigned different departments to manage and operate public facilities while licensing and regulating their private counterparts.

32. On operation and regulation of swimming pools, LCSD and FEHD may have their respective strengths. For example, LCSD is more knowledgeable about requirements regarding life-saving attendants while FEHD's experience in environmental hygiene is more comprehensive. Although public and private swimming pools are under the purview of different government departments, it is more important that the two departments complement each other. We recommend that FEHD set up a standing communication mechanism with LCSD on the regulation and management of swimming pools for greater synergy and exchanges. We are pleased to note that the two departments have already held the first meeting to exchange information and share experience.

Our Recommendations

33. This Office has made the following recommendations to FEHD:

(1) formulate operational guidelines for its staff specifying the follow-up arrangements in the event of closure of swimming pools during surprise inspections;

(2) strengthen the training for health inspectors regarding the inspection of licensed swimming pools, provide more guidelines on the circumstances under which different checking methods are applicable, and unify the checking standard of inspection items where feasible, with a view to enhancing the quality of inspections;

(3) implement measures to help health inspectors familiarise with the new inspection items on the inspection record form as soon as possible, while continuing to review other items on the form as necessary to improve the effectiveness of inspections;

(4) more proactively apply technology and explore the use of mobile apps/smart phones in recording the inspection results for licensed swimming pools;

(5) explore stipulating in the licensing conditions the requirement for licensees to maintain duty logs of life-saving attendants and produce such records upon FEHD officers' request, to provide reference for complaint investigation or other enforcement actions;

(6) establish a notification mechanism for accidents in licensed swimming pools and require licensees to report cases involving casualties within a prescribed period;

(7) review the existing licensing conditions regarding the requirements for life-saving, first-aid and resuscitation equipment and explore the inclusion of basic equipment. FEHD should also identify licensed swimming pools of higher risk (such as those of higher usage or used by high-risk groups including school children) and encourage licensees to upgrade relevant equipment;

(8) with reference to LCSD's opinions, formulate and issue to licensees in due course guidelines on the handling of pollution sources in swimming pool water. The guidelines will serve as standards for licensees when handling different pollution sources;

(9) formulate internal guidelines on the handling of complaints about water quality of licensed swimming pools by health inspectors and continue to monitor their implementation;

(10) step up its enforcement against non-compliant licensed swimming pools;

(11) explore different ways to engage pool users in the monitoring of licensed swimming pools; and

(12) set up a standing communication mechanism with LCSD on the regulation and management of swimming pools for greater synergy and exchanges.

Office of The Ombudsman
February 2024

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